



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

ELECTRONIC MAIL
CERTIFIED MAIL
RETURN RECEIPT REQUESTED

FEB 24 2020

Mr. Harry Adams, President
Bulk Chemicals, Inc.
1074 Stinson Drive
Reading, Pennsylvania 19065

Re: Opportunity to Enter Into Administrative Settlement Agreement and Order on Consent, Facilities in Berks County, Pennsylvania

Dear Mr. Adams:

On October 1-2, 2019, the United States Environmental Protection Agency ("EPA") conducted inspections at three chemical manufacturing and distribution facilities located at 809 Mohrsville Road in Shoemakersville, Pennsylvania, 1076 Park Road in Blandon, Pennsylvania, and 72 Feick Avenue in Hamburg, Pennsylvania (the "Facilities"), which are operated by Bulk Chemicals, Inc. ("Bulk Chemicals"), to determine whether Bulk Chemicals was in compliance with Section 112(r)(1) of the Clean Air Act ("CAA"), 42 U.S.C. § 7412(r)(1) ("Inspections"). The Inspections occurred in the aftermath of a June 10, 2019 nitric acid leak and subsequent fire at the Shoemakersville Facility.

Based on the information discovered during and after the Inspections and subsequent investigation, EPA believes that Bulk Chemicals has violated Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1). EPA is hereby requesting that Bulk Chemicals enter into an Administrative Settlement Agreement and Order on Consent to conduct work at the Facilities in order to bring them into compliance with the CAA.

During the Inspection, EPA determined that Bulk Chemicals is a chemical company that manufactures and/or stores various chemicals in warehouse facilities. The Facilities store and/or manufacture oxidizers, corrosives, flammables and/or combustibles on-site. Most chemicals are in solution at varying concentrations while a few are in solid form. Based on information from the Tier IIs submitted and/or observations during the Inspections, the Facilities contain the following chemicals, among other chemicals:

Shoemakersville: chromic acid, hydrofluoric acid, nitric acid, phosphoric acid, potassium hydroxide, sodium hydroxide, sulfuric acid, hydrogen peroxide, ammonium dichromate, sodium bromate, Glycol Ether EB, ammonium hydroxide

Blandon: hydrofluoric acid, nitric acid, potassium hydroxide, sodium bromate Hamburg: hydrofluoric acid, ferric nitrate, nitric acid, Glycol Ether EPH and Glycol Ether DB, methanol, ammonium dichromate, potassium nitrate, potassium dichromate

Because Bulk Chemicals manufactures and/or stores oxidizers, corrosives, flammables and combustibles at the Facilities, EPA has determined that Bulk Chemicals is the operator of a stationary source at each of the Facilities and is required to comply with Section 112(r)(1) of the CAA, known as the General Duty Clause. As an operator of a stationary source under the General Duty Clause, Bulk Chemicals must identify hazards which may result from releases of extremely hazardous substances (EHSs), design and maintain a safe facility to prevent the accidental release of these EHSs to the air, and minimize the consequences of accidental releases which do occur. 42 U.S.C. § 7412(r)(1).

The measure for whether an owner or operator has safely designed and maintained its facility is whether the facility provides the same level of protection as that provided by industry codes and standards. The applicable industry codes include the following:

- National Fire Protection Association ("NFPA") 400, Hazardous Materials Code (2013 Edition) ("NFPA 400")
- NFPA 30, Flammable and Combustible Liquids Code (1996 and 2015 Editions) ("NFPA 30")
- Building Officials and Code Administrators International ("BOCA") National Building Code (1999 and 1984 editions)
- International Fire Code (2015 edition)

EPA inspectors noted several instances in which Bulk Chemicals' storage practices at the three Facilities are not consistent with the protection provided by industry codes and standards. EPA has identified the following issues that Bulk Chemicals must address to comply with CAA Section 112(r)(1):

- Section 6.1.12 at NFPA 400 provides that incompatible materials in containers greater than 5 pounds must be segregated by an approved method, such as a distance of not less than 20 feet or a noncombustible partition. Section 9.17.3 of NFPA 30-2015 similarly provides that flammables shall be separated from oxidizers by at least 25 feet. EPA inspectors observed the storage of incompatible materials less than 20-25 feet from one another at each Facility with no partitions. For example,
 - Glycol Ether EB, a combustible liquid, Class IIB, was stored in totes located less than 25 feet from totes of nitric acid, an oxidizer at the Shoemakersville upper warehouse.
 - Phosphoric acid and nitric acid solution in totes were stored less than 20 feet from totes of potassium hydroxide 45% solution, sodium hydroxide 45% solution and ammonium hydroxide solution, bases, at the Shoemakersville upper warehouse.

- Totes and drums of acids and bases were stored less than 20 feet from one another in the main area and the annex at the Blandon Facility.
- Two drums of ferric nitrate and a tote of nickel nitrate solution, oxidizers, were stored less than 25 feet from a drum of Glycol Ether DB, a combustible liquid at the Hamburg Facility.
- Glycol Ether EPH and DB, combustible liquids, were stored in drums less than 25 feet from containers of nitric acid, ferric nitrate and nickel nitrate solution, oxidizers, at the Hamburg Facility.
- Section 12.3.10 of NFPA 30-2015 provides that storage of empty or idle combustible pallets inside unprotected liquid storage areas shall be limited to a maximum pile size of 2500 square feet and to a maximum storage height of six feet. EPA inspectors observed empty or idle combustible pallets stored more than six feet high at the Blandon Facility.
- Section 15.2.12.2 of NFPA 400 provides that hydrogen peroxide (Class 2 through Class 4) stored in drums shall not be stored on wooden pallets. EPA inspectors observed hydrogen peroxide stored in 55-gallon drums on wooden pallets at the Shoemakersville and Blandon Facilities.

EPA has determined that Bulk Chemicals' storage of extremely hazardous substances does not provide protection consistent with applicable industry codes because the materials were not properly stored and separated from incompatible materials, and thus the storage is in violation of the General Duty Clause requirement to design and maintain a safe facility to prevent accidental releases of hazardous chemicals to air.

On November 20, 2019, EPA sent Bulk Chemicals a post-inspection letter outlining these potential violations of the General Duty Clause at the Facilities. On December 19, 2019, Bulk Chemicals submitted a response to EPA's post-inspection letter. In its response, Bulk Chemicals states that it has addressed some or all the issues identified in the post-inspection letter and provides pictures of certain storage areas. However, during the Inspection, Bulk Chemicals personnel were not familiar with the applicable industry codes and standards. In addition, EPA's Inspection was necessarily limited in scope, but the Agency is concerned that Bulk Chemicals is not meeting safe design and maintenance standards with respect to the following issues:

- At the Hamburg and Blandon Facilities, the amount of hydrofluoric acid solution (corrosive and toxic) stored exceeded the Maximum Allowable Quantity (MAQ), which is 500 pounds. For corrosives, sections 12.2.1, 12.2.3, 12.2.4 and 12.2.6 of NFPA 400 (2013) provide that such facilities should have spill control, secondary containment, ventilation (for open containers) and fire protection systems. For toxics, sections 18.2.1, 18.2.3 and 18.2.6 of NFPA 400 (2013) provide that such facilities should have spill control, secondary containment and fire protection systems. The Hamburg and Blandon Facilities lacked spill control, secondary containment, ventilation (for open containers) and fire protection systems.
- At the Hamburg and Shoemakersville Facilities, the amount of nitric acid solution (a Class 2 oxidizer) stored exceeded the MAQ, which is 250 pounds. Sections 15.2.1, 15.2.3 and 15.2.6

of NFPA 400 (2013) provide that such facilities should have spill control, secondary containment and fire protection systems, none of which were present, except that spill control was noted in the blending area of the Hamburg Facility.

- Bulk Chemicals did not provide any standard operating procedures to EPA during the Inspection for the safe storage and handling of chemicals at the Facilities.
- It is unclear whether personnel at the Facilities were trained in separation of incompatibles and the safe storage of chemicals at the Facilities.
- During the nitric acid spill on June 10, 2019, Bulk Chemicals' contractor may have exacerbated the June 10, 2019 release of nitric acid (by putting down soda ash, which may have reacted with transformer wiring so as to cause a fire). This incident raises concerns that Bulk Chemicals did not minimize the consequences of the release of hazardous chemicals, a statutory obligation under the General Duty Clause.
- The maximum amounts of flammable and combustible chemicals to be stored at each Facility should be determined so as to ensure that the quantities stay below the thresholds for NFPA 30 (2015), set forth at Section 12.6.2.2 and Table 12.6.2.2. It's unclear whether Bulk Chemicals is aware of and is monitoring the amount of chemicals present at each Facility for this purpose.

NEXT STEPS

In view of EPA's concerns identified above, the fact that Bulk Chemicals was not familiar with the applicable industry codes and standards, and the inability of EPA's inspectors to conclude that extremely hazardous chemicals are being stored consistent with the safety standards provided by industry codes and standards, EPA is hereby requesting that Bulk Chemicals agree to enter into an Administrative Settlement Agreement and Order on Consent ("ASAOC") with EPA to have a third party contractor assess the Facilities' compliance with industry codes and standards to ensure that the Facilities are safely designed and maintained so as to prevent releases of extremely hazardous substances to the air. However, this ASAOC would apply only for Facilities at which Bulk Chemicals presently stores or plans to store extremely hazardous chemicals, not to Facilities that are presently shut down and will remain shut down.

As part of the ASAOC, Bulk Chemicals would submit the name and resume of a proposed contractor(s) to perform the actions, for EPA's approval. The work would include addressing the conditions described above and having the professional or consultant conduct an assessment of the Facilities to ensure the system meets all appropriate codes and standards, including NFPA, BOCA National Building Code and the International Fire Code. Bulk Chemicals would submit a report of the assessment, including a list of any safety and/or release prevention improvements necessary to meet all appropriate codes, protocols and standards, with a schedule for making improvements at the Facilities. EPA will review the plan and schedule and either approve it or disapprove it with comments. Finally, Bulk Chemicals would submit a completion report 30 days after completing the work required by the approved workplan, and correct any deficiencies identified by EPA.

Letter to Mr. Henry Adams, Bulk Chemicals, Inc.

Please reply to EPA within fifteen (15) days of receipt of this letter as to whether Bulk Chemicals is willing to enter into negotiations for an ASAO and if Bulk Chemicals would like to schedule a conference to discuss the matter. If you do not respond to this letter, please be advised that EPA reserves the right to unilaterally pursue enforcement to address the violations described in this letter without further advance notice to you. If EPA pursues such an enforcement action, you will receive instructions that describe your right to dispute EPA's claims.

Please direct your written response as well as all questions and communications in regard to any matters addressed in this letter to the attorney assigned to represent EPA:

Cynthia T. Weiss (3RC20)
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103
Tel: (215) 814-2659
Email: weiss.cynthia@epa.gov

If Bulk Chemicals has any information it would like EPA to consider in connection with this request for work, Bulk Chemicals should submit the information to EPA within fifteen (15) days of receipt of this letter. Bulk Chemicals must include as part of any submission of information or documentation to EPA pursuant to this letter the following certification, signed and dated:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this response to the letter from EPA and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining or compiling the information, I believe that the submitted information is true, accurate, and complete. I recognize that there are significant penalties for submitting false and/or misleading information, including the possibility of fines and/or imprisonment (18 U.S.C. § 1001)."

Signature: _____
Printed Name: _____
Title: _____
Date: _____

Pursuant to the regulations set forth at 40 C.F.R. Part 2, Subpart B, Bulk Chemicals is entitled to assert a business confidentiality claim covering any part of the submitted information, subject to EPA's evaluation of the information's confidential status. Unless such a confidentiality claim is asserted at the time the information is submitted, EPA may make this information available to the public without further notice to the submitter. Information subject to a business confidentiality claim may be made available to the public only to the extent set forth in the above-cited regulations. Any such claim for confidentiality must conform to the requirements set forth in 40 C.F.R. § 2.203(b).

EPA has made no determination as to whether Bulk Chemicals is a "small business" under the Small Business Regulatory Enforcement and Fairness Act ("SBREFA"). Please see the Small Business Information Sheet (Enclosure). The enclosed sheet provides information on contacting the SBREFA

Letter to Mr. Henry Adams, Bulk Chemicals, Inc.

Ombudsman to comment on Federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve Bulk Chemicals of its obligation to respond in a timely manner to an EPA information request or other enforcement action and does not create any new rights or defenses under law.

The issuance of an ASAO does not preclude the commencement of administrative penalty proceedings or civil or criminal actions in the Federal courts, pursuant to Section 113 of the Clean Air Act, 42 U.S.C. § 7413, against Bulk Chemicals for violations at the Facility. EPA retains full authority to enforce the requirements of the CAA and other federal environmental statutes and nothing in an ASAO or this letter shall be construed to limit that authority.

Sincerely,



Karen Melvin, Director
Enforcement & Compliance Assurance Division

Enclosure (1)

cc: Franke Ike, Director of Operations (fike@bulkchemicals.us)
Cynthia T. Weiss, Esq. (3RC20)
Michael Welsh, P.E. (3ED12)

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Office of Small and Disadvantaged Business Utilization (OSDBU)

www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman (ASBO)

www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

EPA's Compliance Assistance Homepage

www.epa.gov/compliance

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

Compliance Assistance Centers

www.complianceassistance.net

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

Clean Air Technology Center (CATC) Info-line

www.epa.gov/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 1-734-214-4100

National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills - <http://nrc.uscg.mil> or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/p2/pollution-prevention-resources#ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline or 1-800-426-4791

Toxic Substances Control Act (TSCA) Hotline

tsca-hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

<https://nationalsbeap.org/states/list>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/enforcement/small-businesses-and-enforcement

EPA's Audit Policy

www.epa.gov/compliance/epas-audit-policy

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.